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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,582	10/17/2001	Frank Saier	01-656	7214

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Robert H. Bachman  
BACHMAN & LaPOINTE, P.C.  
Suite 1201  
900 Chapel Street  
New Haven, CT 06510-2802

EXAMINER

SUBRAMANIAN, NARAYANSWAMY

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/981,582

**Applicant(s)**

SAIER, FRANK

**Examiner**

Narayanswamy Subramanian

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-7 is/are pending in the application.
- 4a) Of the above claim(s) 1 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This communication is in response to the request for continued examination filed on September 27, 2004. Election of claims 4-7 without traverse in response to restriction/election made by the Applicant has been entered. Claim 1 has been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. Applicant is respectfully advised to cancel the non-elected claim in response to this office action. Claims 4-7 are pending in the application. The rejections and response to arguments are stated below.

***Claim Rejections - 35 USC § 101***

2. The claims 4-7 of the invention are directed to non-statutory subject matter. Claims 4-7 are drawn to a method for reprocessing chargeable accumulators or battery packs that is not tied to any technological art. These claims are directed to non-statutory subject matter because they lack any recitation of technology in the body of the claims, which is required in order to meet the statutory requirements. The Patent Office has taken the position that some form of technology must be claimed in the body of the claim. The Board of Patent Appeals and Interferences has stated that claims lacking any technology are “nothing more than [an] abstract idea which is not tied to any technological art and is not a useful art as contemplated by the Constitution.” *Ex parte Bowman*, 61 USPQ2d 1669, 1671 (Board Pat. App. & Inter. 2001) (Unpublished). While it is understood that the Bowman case is not precedential, it is cited herein for its content and reasoning.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark (US Patent 6,351,738 B1) in view of Tseng (US Patent 5,631,536).

With reference to claim 4, Clark discloses a method comprising: providing a plurality of service station business partners, said partners being capable of offering services and products, providing a central service office for supplying said service station business partner with the necessary equipment, wherein said central service office controls the service process of said service station business partners; providing a product database comprising of product data, wherein said product data base is supplied with the respective data by the central service office and said data at least in part being received from the service station business partners; and providing access of said service station business partners to said product database; wherein said central service office arranges on demand of the service station business partners the delivery of the required parts and equipment which are necessary for the service station business partners to perform said services (See Clark Figures 3-6, Column 2 lines 39-67, Column 3 line 45 – Column 6 line 14) The HBE is interpreted to include the central office and the business is interpreted to include a service station. The steps described above are also inherent in any business franchise that offers products and services.

Clark does not explicitly teach the steps of offering the services of reprocessing chargeable accumulators or battery packs and services associated with it; a product database

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comprising data associated with battery power devices; and suppliers of batteries or accumulators and welding equipment.

Tseng teaches the steps of offering the services of reprocessing chargeable accumulators or battery packs and services associated with it (See Tseng Abstract, Column5 lines 26-60 and claim 1). Product database comprising data associated with battery power devices; and suppliers of batteries or accumulators and welding equipment are old and well known in the art. For instance, when an employee of a National Tire and Battery (NTB) store wants to find out about one of the products, he/she looks up a central database that carries all the information including the manufacturer, technical data, price etc. The headquarters of NTB also furnishes the store with all the necessary equipment including welding machines and all the parts and accessories on a regular basis.

Both Tseng and Clark are concerned with the problem of providing services to business customers. In the case of Clark it is a generic product or service and in the case of Tseng it is recharging batteries. It would have been obvious to one with ordinary skill in the art at the time of invention to combine the teachings of Tseng to the invention of Clark. The combination of disclosures taken as a whole suggests that users would have benefited from being able to service their batteries in one location.

With reference to claims 5-7, Clark discloses the steps of providing a financial office for financing the service station, being purchased by the service station business partner at the central service office; said financial office receiving the necessary data concerning the service station business partner from the central service office; controlling the processing of service stations that are given back to said financial office by service station business partners; causing

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of retraction of said service station and producing a new facility from said service station given back by said manufacturer. (See Clark Column 2 lines 39-67, Column 3 line 45 – Column 6 line 14). Access to capital financing than the participant can obtain on its own and discounted acquisition costs and financing rates are interpreted to include the steps of providing a financial office for financing the service station, being purchased by the service station business partner at the central service station; said financial office receiving the necessary data concerning the service station business partner from the central service station. In the case of Franchises, when the Franchisee returns the Franchise to the head office, the head office may run the franchise on its own till a new Franchisee is found or it may sell the store to a developer of another business. Signs like “under new management or owner” and new businesses sprouting in places where other businesses used to be are very common in the Franchising industry.

***Response to Arguments***

5. With reference to Applicant's arguments on page 7 of the communication dated May 7, 2004, that “There is nothing in the art or in the official notice taken by the examiner to teach or suggest the advantage provided by a product database which is supplied with data by a central service office, and therefore forms a centralized repository of database information” the Examiner disagrees. The Examiner would like to direct the Applicants to Kenny et al (Pub. No. US 2002/0007295 A1) especially paragraphs 5, 6, 10 and 11 in support of the official notice taken.

Applicant's other arguments with respect to claim 1 have been considered but are moot in view of non-election of claim 1.

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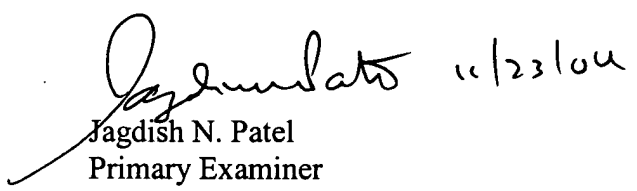
***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (703) 305-4878. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (703) 308-1065. The fax number for Formal or Official faxes and Draft to the Patent Office is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

N. Subramanian  
November 22, 2004

 11/23/04  
Jagdish N. Patel  
Primary Examiner